IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR NO.186/2003
Date of Decision: 29.5.2009.

Gurmeet Kaur

.....Petitioner.

Versus

Urjinder Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH.

Present: Mr.HPS Ghuman,Advocate for the petitioner.
Ms.Rajvinder Kaur,Advocate for respondent no.1.
Mr.FS Virk,Advocate for
Mr.Tejinder Joshi,Advocate for respondent no.2.
None for respondent no.3

JASWANT SINGH,J.

This revision petition under Article 227 of the Constitution of India is directed against the order dated 10.10.2008 passed by learned Civil Judge (Junior Division)Nabha, allowing the applications under order 6 Rule 17 and Order 1 Rule 10 CPC, filed by plaintiff-respondent no.1.

Briefly stated, the plaintiff-respondent no.1, on 17.7.2006 filed a suit for declaration to the effect that mutation no.2446 dated 30.5.2001 qua the estate of one Dara Singh son of Dewan Singh is liable to rectified to the extent that the defendant no.1(petitioner herein) is owner in possession of the property till her death and has no right to alienate or mortgage the estate of Dara Singh son of Dewan Singh, which is subject matter of the said suit pending between the parties.

Before the issues could be framed, plaintiff-respondent no.1 filed

application under Order 6 Rule 17 CPC and Order 1 Rule 10 CPC read with Section 151 CPC for impleading one Balbir Singh s/o Dewan Singh as defendant no.4 in the said suit. It was stated in the application that during the pendency of the suit defendant no.1(petitioner herein) sold 73 kanal 17 marlas of land to defendant no.2 and Balbir Singh father of defendant no.3-Arshwinder Singh on 13.2.2008 and to incorporate these changed circumstances, amendments in the plaint were necessary as also impleadment of said Balbir Singh.

Petitioner-defendant no.1 contested the said applications and filed reply to the applications. It was stated therein that the plaintiff-respondent no.1 should claim the remedy prayed for by filing a separate suit and that the proposed amendments will change the nature of the suit.

The learned trial Court after hearing both sides allowed the aforesaid applications. Hence the present revision petition.

Heard learned counsel for the parties.

Learned trial Court in para 4 of the impugned order has noticed that initially the suit was filed by Urjinder Singh-respondent no.1 and Arshwinder Singh. Later on Urjinder Singh sought amendment of the plaint on the ground that plaintiff no.1 Arshwinder Singh had connived with the defendant-petitioner. Said amendment was allowed by the learned trial Court vide order dated 16.3.2007 and Arshwinder Singh-plaintiff no.1 was arrayed as proforma defendant no.2. Thereafter, the injunction application of the plaintiff Urjinder Singh stood dismissed by the learned trial Court vide order dated 2.2.2008, whereupon he preferred an appeal and learned District Judge, Patiala vide

order dated 13.2.2008 directed that in case of any alienation to be made by Gurmeet Kaur-petitioner, it shall be subject to the order of the Court and she shall intimate the prospective vendee of the present litigation. Plaintiff went in revision which was dismissed however, the aforesaid direction of the learned District Judge, Patiala remained unchanged. It is in this background that plaintiff filed the applications for amendment of the plaint so as to incorporate the changed circumstances and to implead the vendee-Balbir Singh father of Arshwinder Singh.

The aforesaid facts have not been disputed by the learned counsel for the petitioner. It is also not disputed that the issues are yet to be framed.

In these circumstances, in my considered opinion, the learned trial Court committed no illegality by allowing the said applications, as the suit is still at the initial stage and it will be appropriate to bring on record the changed circumstances by way of the proposed amendment. Moreover, the plaintiff being the dominus litus is within his right to implead such persons, as may be necessary party for final and effective adjudication of the lis between the parties.

In **Sanjay Verma vs. Manik Roy and** others, 2007(1) RCR(Civil) 408, relied upon by the learned counsel for the petitioner-defendant no.1, the Hon'ble Supreme Court has held that a transferee pendente lite cannot seek impleadment as a matter of right without leave of the Court. In the present case it is the plaintiff himself who has sought the impleadment of transferees pendente lite and therefore, the cited judgment is of no help to the petitioner. No fault can be found with the exercise of jurisdiction by the learned trial

court.

Accordingly,finding no merit in this revision petition the same is hereby dismissed.

29.5.2009. **(Jaswant Singh)**
joshi **Judge**